

REMARKS

Claims 76-79 have been added. Claims 42-79 are now present in this case.

Applicant provisionally elects the claims of Group II for prosecution with traverse.

RESPONSE TO RESTRICTION REQUIREMENT

Applicant wishes to thank Examiner Webman for the indication that the previous prior art rejections of record have been withdrawn in view of the Rule 132 Declaration of July 31, 2006.

Restriction has been required from among:

Group I, Claims 42-50, 61, 64-66 and 73, drawn to a method of using (Group I);

Group II, Claims 51-55, 62, 67-69 and 74, drawn to a composition (Group II); and

Group III, Claims 56-60, 63, 70-72 and 75, drawn to a method of making.

Groups I and II are related as process of use and product, respectively. As such, patentable distinction is shown if:

- (1) the process for using the product as claimed can be practiced with another materially different product or
- (2) the product as claimed can be used in a materially different process of using that product. MPEP §806.05(h).

The Examiner has relied only upon the first prong of the above test, opining that:

. . . the process for using the product as claimed can be practiced with another materially different product such as a composition containing water-insoluble active agent [emphasis added].

However, the “active agent” of the claimed subject matter is a water solution-stable macronutrient and/or micronutrient product. See claim 51, for example. Further,

in order to correct plant deficiencies, this product must be water-soluble to facilitate root absorption. Thus, a water-insoluble active agent or reaction product cannot be used in the claimed process of use inasmuch as a water-soluble product is required.¹ Hence, this basis for restriction is unsustainable and should be withdrawn.

Groups I and III are related as process of use and process of making, respectively.

As such, patentable distinction is shown if:

- (1) the process as claimed can be used to make another and materially different product or
- (2) the product as claimed can be made by another and materially different process. MPEP §806.05(f).

The Examiner has relied only upon the second prong of the above test, opining that:

. . . the product as claimed can be made by another and materially different process such as dissolving soluble metal salts [emphasis added].

However, an important aspect of the present invention resides in the reaction of 1) one or more sulfamic acid compounds with 2) a substantially water-insoluble second compound containing macronutrient and/or micronutrient product to form 3) a water-solution-stable macronutrient and/or micronutrient product. See page 14, paragraph [0038] of the application as filed, lines 8-10 thereof. The Examiner has not shown how or why the use of the postulated “water-soluble metal salts” as the “second compound” in the reaction would lead to a “materially different” product.²

Hence, this basis for restriction is without basis and should be withdrawn.

¹ Applicant assumes that the Examiner equates the “active agent” with the reaction product claimed as the latter is, after all, the basis of the composition.

² Applicant assumes that the Examiner’s postulated “water-soluble metal salts” would be used interchangeably with, and are thus equated to, the “second compound” as claimed.

Additionally, in view of the persuasiveness of the Rule 132 Declaration of July 31, 2006, it is urged as appropriate, at the very least, that the claims of Group I (42-50, 61, 64-66 and 73) be considered on the merits with those of Group II (51-55, 62, 67-69 and 74) in accordance with current Office policy in view of In re Ochiai and In re Brouwer. Newly added claims 76-79 have been added accordingly.

Finally, Applicant provisionally elects with traverse the macronutrient and/or micronutrient species of iron-containing compounds, particularly siderite (iron carbonate).

However, Applicant traverses this requirement inasmuch as any of the macronutrient and/or micronutrient compounds disclosed and claimed may be reacted with the one or more sulfamic acid compounds to form the water solution-stable macronutrient and/or micronutrient product. Further, it would appear that a search of the claimed subject matter might be based on the sulfamate-based nature of the reaction product rather than the particular metal salts used to make it. Hence, Applicant respectfully submits that the focus on one provisionally elected species is unwarranted.

Hence, the election of species requirement is believed to be unwarranted and should be withdrawn.

Accordingly, it is believed that all pending claims should be examined without further delay. Reconsideration is earnestly solicited.

CONCLUSION

In view of the above amendments and remarks, Applicant respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance

S/N: 09/880,322

Attorney Docket No. 70074.0001US01

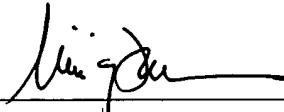
the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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January 9, 2007

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